

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ANDRE MARIE NGONO,

Plaintiff,

-against-

LUC OWONO; KAMARA YOUSOUF;
AFRICA EMPLOYMENT AGENCY,

Defendants.

21-CV-0095 (PGG)

ORDER OF SERVICE

PAUL G. GARDEPHE, United States District Judge:

Plaintiff, appearing pro se, brings this action under the Alien Tort Statute, the Trafficking Victims Protection Act, and the Trafficking Victims Protection Reauthorization Act. He alleges that Defendants subjected him to forced labor and human trafficking. By order dated February 19, 2021, the Court granted Plaintiff's request to proceed without prepayment of fees, that is, in forma pauperis (IFP).

DISCUSSION

Because Plaintiff has been granted permission to proceed IFP, he is entitled to rely on the Court and the U.S. Marshals Service to effect service. Walker v. Schult, 717 F.3d 119, 123 n.6 (2d Cir. 2013); see also 28 U.S.C. § 1915(d) ("The officers of the court shall issue and serve all process . . . in [IFP] cases."); Fed. R. Civ. P. 4(c)(3) (the court must order the Marshals Service to serve if the plaintiff is authorized to proceed IFP)). Although Rule 4(m) of the Federal Rules of Civil Procedure generally requires that the summons and complaint be served within 90 days of the date the complaint is filed, Plaintiff is proceeding IFP and could not have served the summonses and complaint until the Court reviewed the complaint and ordered that summonses be issued. The Court therefore extends the time to serve until 90 days after the date the summonses are issued. If the complaint is not served within that time, Plaintiff should request an

extension of time for service. See Meilleur v. Strong, 682 F.3d 56, 63 (2d Cir. 2012) (holding that it is the plaintiff's responsibility to request an extension of time for service); see also Murray v. Pataki, 378 F. App'x 50, 52 (2d Cir. 2010) ("As long as the [plaintiff proceeding IFP] provides the information necessary to identify the defendant, the Marshals' failure to effect service automatically constitutes 'good cause' for an extension of time within the meaning of Rule 4(m).").

To allow Plaintiff to effect service on Defendants Luc Owono, Kamara Youssouf, and the Africa Employment Agency through the U.S. Marshals Service, the Clerk of Court is instructed to send to Plaintiff one U.S. Marshals Service Process Receipt and Return form ("USM-285 form") for each of these defendants. Within thirty days of the date of this order, Plaintiff must complete a USM-285 form for each defendant and return those forms to the Court.

Upon receipt of the completed USM-285 forms, the Clerk of Court shall issue summonses and deliver to the Marshals Service all of the paperwork necessary for the Marshals Service to effect service upon the defendants.

If Plaintiff does not wish to use the Marshals Service to effect service, Plaintiff must notify the Court in writing within thirty days of the date of this order and request that summonses be issued directly to him. If within thirty days, Plaintiff has not returned the USM-285 forms or requested summonses, under Rule 41(b) of the Federal Rules of Civil Procedure, the Court may dismiss this action for failure to prosecute.

Plaintiff must notify the Court in writing if his address changes, and the Court may dismiss the action if Plaintiff fails to do so.

CONCLUSION

The Clerk of Court is directed to mail a copy of this order to Plaintiff, together with an information package.

The Clerk of Court is further instructed to send to Plaintiff one USM-285 form for each defendant – Luc Owono, Kamara Youssouf, and Africa Employment Agency. Within thirty days of the date of this order, Plaintiff must complete a USM-285 form for each defendant and return those forms to the Court. Upon receipt of the completed USM-285 forms, the Clerk of Court shall issue summonses and deliver to the Marshals Service all of the paperwork necessary for the Marshals Service to effect service upon the defendants.

SO ORDERED.

Dated: March 1, 2021
New York, New York



PAUL G. GARDEPHE
United States District Judge